

Course Outline

COURSE:	LAWS 3208A - International Trade Regulation
TERM:	Winter 2014
PREREQUISITES:	LAWS 2601 or LAWS 2202 or LAWS 2501 or BUSI 2601.
CLASS:	Day & Time: Mondays, 14:35 to 17:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Renata Watkin, B.A., M.A., LL.B.
CONTACT:	Office: Room B442 LA Office Hrs: By appointment Telephone: 613-795-7337 Email: Renata.PimentelWatkin@Carleton.ca

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

The rules which comprise international economic law form the legal framework at an international level for the regulation of international trade and investment. This course will examine the role played by international law and specifically by international economic law in regulating international economic activity. It will examine the development and elements of the international legal framework for regulating trade and investment.

The role of law in society will be examined before continuing with a study of the nature, sources and operation of international economic law. The course will concentrate on the World Trade Organization legal framework and a study will be made of select aspects of the regulation of international economic activity, including, the main international obligations, contingency protection, bilateral and plurilateral agreements, regional integration, and dispute settlement mechanisms. The course will also examine the development of the expansion of international regulation of economic activity under the World Trade Organization (WTO). In addition, an examination of some of the elements of the regulation of international investment will be made.

A fundamental theme of this course will be assessing the role of law in regulating international economic transactions.

REQUIRED TEXTS

The text for the course is Peter van den Bossche and Werner Zdouc, 3rd ed., *The Law and Policy of the World Trade Organization* (Cambridge, UK: Cambridge University Press, 2013).

In addition to the text, I may assign complementary weekly readings on topical issues based on materials which can be accessed on-line or are on reserve in the Library.

SUPPLEMENTARY TEXTS

Students may also wish to consult the following texts:

1. Michael J. Trebilcock, *Understanding Trade Law*, (Cheltenham, U.K. and Northampton, Mass.: Edward Elgar Publishing Limited, 2011).
2. Jackson, John H., *The World Trading System - Law and Policy of International Economic Relations*, 2nd ed., (Cambridge, Mass.: The MIT Press, 1997). Call number: K4602.2 1997. (On reserve in Library)
3. Michael J. Trebilcock and Robert Howse, *The Regulation of International Trade*, 4th ed., (London and New York: Routledge, 2013).
4. Hugh M. Kindred, et al., *International Law - Chiefly as Interpreted and Applied in Canada*, 6th ed. (Toronto: Emond Montgomery Publications, 2000). Call number: JX68.I4984 2000.

The WTO website (www.wto.org) contains a wealth of information on the WTO's mandate, activities and the agreements within its framework. Students should consult the WTO website, particularly the section "Resources for Students":

http://www.wto.org/english/forums_e/students_e/students_e.htm.

Students in this course are also advised to regularly keep up on current developments in the international trade area. International trade law is a vibrant and dynamic area of law, and events involving international law issues are a daily occurrence in the press. Useful sources include, among others, newspapers (the general news section as well as the business section), *The Economist*, and the *World Trade Review*

(<http://journals.cambridge.org.proxy.library.carleton.ca/action/displayJournal?jid=WTR>).

COURSE FORMAT

The course will follow a lecture and discussion format. Students must read the assigned readings in advance and be prepared to discuss them in class.

EVALUATION

(All components must be completed in order to get a passing grade)

Mid-term	40%
Final exam	60%
	100%

Important Notes:

1. Deferred Final Examinations

A student who is unable to write a scheduled final exam because of illness or other circumstances beyond his/her control, or whose performance on the examination has been impaired by such circumstances, may, on application to the Registrar's Office, be granted permission to write a deferred final exam or assignment with proper documentation.

Applications for deferred final examinations must:

- be made in writing to the appropriate Registrar's Office no later than 5 business days after the date of the examination or the last day of classes; and
- be fully supported in the case of illness by a medical certificate or by appropriate documents in other cases (e.g. bereavement documentation).

Medical documents must specify the date of the onset of the illness, the (expected) date of recovery, and the extent to which the student was/is incapacitated during the time the exam or assignment was to be prepared.

Granting of a deferral requires that the student has performed satisfactorily in the course according to the evaluation scheme established in the Course Outline (excluding the final exam for which deferral privileges are requested). For more detailed information, please refer to consult Carleton's Undergraduate Calendar for 2013-2014

(<http://calendar.carleton.ca/undergrad/regulations/academicregulationsoftheuniversity/acadregsuniv2/#2.5>).

2. Academic Integrity

Students are requested to read the section "Academic Integrity" in the 2013-14 Undergraduate Calendar, including the Examination Regulations

(<http://calendar.carleton.ca/undergrad/regulations/academicregulationsoftheuniversity/acadregsuniv14/>). Cheating, plagiarism and complementarity will be severely penalized. Sanctions may include, but are not limited to, completion of a remediation process, a written reprimand,

assignment of a failing grade, withdrawal from a course, suspension from a program, suspension or expulsion from the university, among others. For a complete description of possible sanctions, consult Section IX, Sanctions, of the Carleton University Academic Integrity Policy, available at www.carleton.ca/studentsupport.

3. Departmental Policy and Procedure

For further instructions and warnings on issues such as prerequisites, assignments and grading (including the Department's policy on plagiarism), students should consult the Law Department's Policy and Procedure Statement and the relevant pages in the University's Undergraduate Calendar.

The course syllabus may change to accommodate student/instructor requirements. Changes will be made with as much advance notice as possible. Please check cuLearn regularly for updates and additional information and materials and Carleton's Undergraduate Calendar for relevant dates and deadlines: <http://calendar.carleton.ca/undergrad/>.

COURSE SCHEDULE

Date	Topics
Jan. 6	<p>Introduction</p> <ul style="list-style-type: none"> • Outline of course • Expectations <p>Law</p> <ul style="list-style-type: none"> • The idea of law • The role of law in society <ul style="list-style-type: none"> ○ Establishing rules ○ Dispute settlement • The concept of legalization <p>What is Public International Law?</p> <ul style="list-style-type: none"> • The nature of international law • The place of international trade law within international law <p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. Abbott, Kenneth W., et al, 'The Concept of Legalization', (2000) 54 (3) Intl Organization, 401–419. (Available at http://www.princeton.edu/~amoravcs/library/concept.pdf)
Jan. 13	<p>International Law and Domestic Law</p> <ul style="list-style-type: none"> • The interplay of domestic law and international law • Reception of international law in Canadian domestic law • The case of International trade agreements: constitutional issues <p>Liberalized Trade</p> <ul style="list-style-type: none"> • The ideal of free trade and comparative advantage

	<ul style="list-style-type: none"> • Liberal trade and the impact of trade • Globalization, the emergence of global supply chains and the changing face of international trade <p>Introduction to International Economic Law (“IEL”)</p> <ul style="list-style-type: none"> • A legal framework for trade and investment • The scope of international economic law • Relation to private and public international law • Relation to national (domestic) law • Bilateral/plurilateral/multilateral agreements • The relevance of the international legal framework <p><u>Readings</u></p> <ol style="list-style-type: none"> 1. Text, Chapter 1, sections 1, 2, 3.1.1 and 3.1.2, pp. 1-35. 2. “Federal-Provincial-Territorial Consultations on Trade”, Foreign Affairs and International Trade Canada website, http://www.international.gc.ca/trade-agreements-accords-commerciaux/goods-produits/Consult5.aspx?lang=en
Jan. 20	<p>Multilateral Regulation of Trade – Historical background and overview</p> <ul style="list-style-type: none"> • The Bretton Woods System <ul style="list-style-type: none"> ◦ A legal framework for international trade regulation • The General Agreement on Tariffs and Trade (GATT) • The World Trade Organization (WTO) • The WTO agreements: GATT 1994, TRIPs, GATS, TRIMS <p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. Text, Chapter 2, sections 1 to 5, pp. 74-148, and Chapter 1, section 3.2, pp. 35-40. 2. Jackson, John, <i>The World Trading System</i>, 2nd ed., (Cambridge: The MIT Press, 1997), Chapter 2, "The International Institutions of Trade: The WTO and the GATT," pp. 31-78
Jan. 27	<p>Multilateral Regulation of Trade in Goods The Principle of Non-Discrimination</p> <p>1. The Most-Favoured-Nation (MFN) Treatment</p> <ul style="list-style-type: none"> ◦ Conditional and unconditional MFN ◦ Exceptions to MFN <p><u>Readings:</u> Text, Chapter 4, sections 1, 2.1, 2.2 and 2.3, pp. 315-335.</p> <p>2. National Treatment</p> <ul style="list-style-type: none"> ◦ National treatment and the GATT ◦ Examples, exceptions <p><u>Readings:</u> Text, Chapter 5, sections 2.1, 2.2, 2.3 and 2.4, pp. 349-403.</p>

	<p>Rules on Market Access</p> <p>1. Tariff barriers to trade in goods <u>Readings:</u> Text, Chapter 6, sections 1 to 4, pp. 418-477.</p> <p>2. Non-tariff barriers to trade in goods <u>Readings:</u> Text, Chapter 7, Sections 1, 2 and 3, pp. 479-513.</p> <p>Exceptions to the principle of non-discrimination</p> <ul style="list-style-type: none"> • “General exceptions” (e.g., health and welfare) <u>Readings:</u> Text, Chapter 8, sections 1 and 2, pp. 543-583. • National security <u>Readings:</u> Text, Chapter 8, section 4.1, pp. 594-599. • Balance of payments <u>Readings:</u> Text, Chapter 9, section 4.1, pp. 636-645.
Feb. 3	<p>Contingency protection</p> <ul style="list-style-type: none"> • Safeguards <u>Readings:</u> Chapter 9, sections 1, 2 and 3.1, pp. 606-634. • Dumping <u>Readings:</u> Chapter 11, pp. 673-739 • Subsidies <u>Readings:</u> Chapter 12, pp. 745-845
Feb. 10	Mid-term Exam
Feb. 17	Family Day/Winter Break
Feb. 24	<p>1. The Multilateral Regulation of Trade in Services: the GATS The Principle of Non-discrimination</p> <ul style="list-style-type: none"> • The Most-Favoured Nation Treatment in the GATS <u>Readings:</u> Text, Chapter 4, pp. 335-346. • The National Treatment in the GATS <u>Readings:</u>

	<p>Text, Chapter 5, section 3, pp. 403-417</p> <p>Market access and other barriers to trade in services <u>Readings:</u> Text, Chapter 7, sections 4 and 5, pp. 514-541</p> <p>General Exceptions under the GATS <u>Readings:</u> Text, Chapter 8, section 3, pp. 583-594</p> <p>Security Exceptions <u>Readings:</u> Text, Chapter 8, section 4.2, pp. 599-600</p> <p>Balance-of-Payments Measures under the GATS <u>Readings:</u> Text, Chapter 9, section 4.2, pp. 645-646</p> <p>Safeguard measures under the GATS <u>Readings:</u> Text, Chapter 9, Section 3.3, pp. 635-636</p> <p>2. Intellectual Property Rights <u>Readings:</u> Text, Chapter 15, pp. 952-1016</p>
Mar. 3	<p>Dispute Settlement (Part 1)</p> <ul style="list-style-type: none"> • Power-oriented versus rule-oriented diplomacy • From GATT to the WTO • Principles of WTO dispute settlement <p><u>Readings:</u> Text, Chapter 3, sections 1 to 4, pp. 157-205</p>
Mar. 10	<p>Dispute Settlement (Part 2)</p> <ul style="list-style-type: none"> • Institutions of WTO dispute settlement • WTO dispute settlement proceedings • Challenges to the WTO DSM <p><u>Readings:</u> Text, Chapter 3, sections 5, 6, 7 and 8, pp. 205-311</p>
Mar. 17	<p>Regional Integration</p> <ul style="list-style-type: none"> • Regional integration theory: customs unions, free trade areas and preferential arrangements • The GATT rules: trade creation versus trade diversion • Dispute settlement in FTAs • Specific regional integration schemes: <ul style="list-style-type: none"> ○ The European Union

	<ul style="list-style-type: none"> ○ NAFTA ○ Canada's FTAs with Chile, Colombia and Peru ○ TPP ○ CETA ○ Mercosur and the Pacific Alliance <p><u>Readings:</u></p> <p>1) Text, Chapter 10, pp. 648-672</p> <p>2) Davidson, Paul J., "Ask not what the WTO can do for RTAs, But what RTAs can do for the WTO", (2005) <i>Asia Pacific Law Review</i>, Vol 13 No 1, pp.47-61, Available online through the Library via: HeinOnline Law Journal Library;</p> <p>3) The Economist, "In my backyard: Multilateral trade pacts are increasingly giving way to regional ones," <i>The Economist</i>, October 12, 2013, available online at http://www.economist.com/news/special-report/21587380-multilateral-trade-pacts-are-increasingly-giving-way-regional-ones-my-backyard</p>
Mar. 24	<p>The Regulation of Investments</p> <ul style="list-style-type: none"> ● Relation of trade and investment ● GATT/FIRA ● WTO/TRIMs ● the CUSFTA and NAFTA Chapter 11 ● BITs and FIPAs ● the MAI ● codes of conduct <p><u>Readings:</u></p> <p>Michael J. Trebilcock, Robert Howse and Antonia Eliason, <i>The Regulation of International Trade</i>, 4th ed., (London and New York: Routledge, 2013), Chapter 15, pp. 566-604.</p>
Mar.31	<p>Investment Disputes</p> <ul style="list-style-type: none"> ● Problem of investor-state disputes ● Role of ICSID ● NAFTA Chapter 11 disputes <p><u>Readings:</u></p> <ol style="list-style-type: none"> 1. Schreuer, Christoph. "International Centre For Settlement Of Investment Disputes", in C. Tietje and A. Brouder, eds., <i>Handbook of Transnational Economic Governance Regimes</i>, pp.133-142 (Martinus Nijhoff Publishers, 2010), Martinus Nijhoff Online [available through the Library]; 2. Vanduzer, J. A., "Investor-State Dispute Settlement under NAFTA Chapter 11 : the shape of things to come?", <i>The Canadian Yearbook of International Law</i> (1998), volume 35 , p. 263-290 [available on-line through the Library]; 3. Barry McKenna, "Canada must learn from NAFTA legal battles," <i>The Globe and Mail</i>, November 25, 2013, available online at http://www.theglobeandmail.com/report-on-business/economy/canada-must-learn-from-nafta-legal-battles/article15579209/ 4. Martin Valasek and Azim Hussain, Ogilvy Renault LLP, "Investor-state

	<p>arbitration, court intervention, and the ICSID Convention in Canada,” <i>Bulletin</i>, CBA National Section on International Law, December 2009, available online at http://www.cba.org/CBA/newsletters-sections/pdf/11_09_intl-icsid.pdf.</p> <p>5. ICSID - International Centre for Settlement of Investment Disputes Website: http://icsid.worldbank.org/ICSID/Index.jsp.</p>
April 7	Exam Review